REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks is respectfully requested. By this Amendment, the specification is amended, claims 1, 9, 11, and 12 are amended, and claims 10 and 13 are canceled. Accordingly, claims 1-9, 11-12, and 14-26 are pending in this application.

At the outset, Applicant appreciates the indication made by the Examiner during the telephone interview of May 1, 2008 that the rejection of claims 16-19 under 35 USC §101 is withdrawn.

Applicant amends the specification to indicate that the present application is based on, and claims priority from, United Kingdom Application Number 0307925.8, filed April 5, 2003, the disclosure of which is hereby incorporated by reference herein in its entirety.

Claims 1-7, 9-13, and 16-26 are rejected under 35 USC §102(e) as being unpatentable over *Dutta* et al. (US 2004/0122976) in view of *Flynn* (US 6,549,522). The PTO further rejects claims 8, 14 and 15 under 35 USC §103(a) as being unpatentable over *Dutta* in view of Flynn (US 6,549,522). Based at least upon the aforementioned claim to priority, these rejections are respectfully traversed.

The present application was filed October 31, 2003, and the foreign priority date of April 5, 2003, has been perfected. *Dutta* was filed October 24, 2003, and is related to Provisional Application Serial No. 60/421,031, filed October 24, 2002. It is Applicant's position that the PTO is not entitled to the benefit of the October 24, 2002, filing date of the provisional application insofar as it concerns the published *Dutta* application filed October 24, 2003. It is Applicant's position that the benefits of 35 U.S.C. §119(e) inure only to the benefit of an applicant and that the PTO is entitled to rely on the filing date of a provisional application *only by proving the provisional application complies with the 35 USC 102(a) requirement that "the invention was known or used in this country" before Appellants' filing date.*

Accordingly, the outstanding 102 and 103 claim rejections over *Dutta* singularly, or in combination with Flynn is improper. Withdrawal of the rejections is respectfully requested.

Not withstanding the improper use of *Dutta*, as presented above, Applicant further

submits that *Dutta* fails to anticipate the device recited in claim 1.

As amended, claim 1 recites, *inter alia*, a method of establishing a network connection from a mobile computing device to a data source on a foreign network, comprising, *inter alia*:

> configuring a first network connection between a mobile computing device and a foreign network via a home network;
> determining that a data source for data requested by the mobile computing device originates from within the foreign network;
> breaking at least a portion of the first network connection; and then
> establishing a second network connection between the mobile computing device and the data source within the foreign network, wherein the second network connection does not use a care-of-address assigned by the foreign network. (Emphasis added).

Notwithstanding the assertions of the Examiner that *Dutta*'s Fig. 4A discloses the above features, Applicant respectfully submits that nowhere does *Dutta* disclose, teach, or suggest breaking of a first connection and the establishing of a second connection not using a care-of-address assigned by the foreign network.

For example, at paragraph [0052], *Dutta* specifically discloses obtaining and using the newly received care-of-address for continuing communications. Furthermore, in paragraph [0077] that describes the flowchart depicted in Fig. 4C, *Dutta* appears to disclose updating the care-of-address data and sending a "SIP Re-Invite" message to the SIP-CH user agent at each correspondent host listed in the session table. The SIP-CH user agent then uses the new care-of-address in its continuing communications with the mobile host. Applicant's method is distinguished from *Dutta* in that unlike *Dutta*, claim 1 recites wherein the second network connection is not established using the foreign network supplied care-of-address.

Independent claims 9, 12, and 20-24 are similar to claim 1 and are all distinguished from *Dutta* in that they all establish a second connection not using the care-of-address assigned by the foreign network.

Because *Dutta* fails to disclose each and every element in claims 9, 12, and 20-24, Applicant respectfully submits that these claims, and the claims that depend therefrom, are patentable over *Dutta*.

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Applicant further submits that the rejection of claims 8, 14, and 15 under 103(a) over *Dutta* in view of *Flynn* is similarly improper at least in view of the failure of *Dutta* to disclose not using the care-of-address when establishing the second connection.

Conclusion

Based upon the above, Applicant respectfully submits that claims 1-9, 11-12, and 14-26 are patentable at least based upon either the unavailability of *Dutta* as prior art, or in the alternative, the failure of *Dutta*, singularly, or in combination with *Flynn* to disclose, teach, or suggest all features of the recited claims.

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

Early issuance of a Notice of Allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

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